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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/267,176 03/12/99 BURKE

M 32277.0200

EXAMINER

TM02/0621

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MORGAN, R

ART UNIT

PAPER NUMBER

2166

DATE MAILED:

06/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/267,176

Applicant(s)

BURKE ET AL.

Examiner

Robert W. Morgan

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,169,979 to Johnson.

As per claim 1, Johnson teaches a method for automatically managing energy cost using metering data and pricing data comprising the steps of:

--the claimed receiving metering data from an electric meter, wherein the metering data is electronically transmitted from said electric meter is met by the ability of the system to receive and store information related to a utility company's in reference to utilities rates as well the ability to access accounts/meters for information to establish usage (see: column 2, lines 39-46 and column 7, lines 30-33);

--the claimed receiving pricing data, wherein the pricing data is associated with a plurality of sources of power is met by the ability of the system to receive and store information related to a utility company's in reference to utilities rates such consumption and cost with regards to power (see: column 2, lines 39-49 and 53-57);

Art Unit: 2166

--the claimed forecasting a forecast load based on the received metering data from the electric meter is met by the ability of the system to process utility information in reference to accounts/meters to help determine better consumption and cost proposals to save the customer money (see: column 2, lines 58-67); and

--the claimed determining an optimal consumption decision based on the received pricing data and the forecast load is met by the ability of the system to process utility information such as rates to better determine consumption and cost proposals to save the customer money (see: column 2, lines 58-67).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (5,974,369) Radtke et al. teaches a recording node for receiving energy-related consumption meter data.

In related art (4,399,510) Hicks uses an electronic circuitry monitor to determine electrical energy consumption and display the cost.

In related art (Forging links to the future) Hazan discusses how monitoring new automatic meters have become the accounting and billing center for Utilities Company.

In related art (Tracking Energy Use With Digital Meters) Lubell discusses the use of meter reading with a network which can be read on-line.

Art Unit: 2166

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441.

The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-1396 for regular communications and 703-746-5583 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Robert Morgan  
*Robert Morgan*  
June 18, 2001

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100